

Rule 16. Post-Trial Motions**16.01 Post-Trial Motions**

Subdivision 1. Grounds. The court, on written motion of the child's counsel, may grant a new trial on any of the following grounds:

- (A) if required in the interests of justice;
- (B) irregularity in the proceedings of the court or in any court order or abuse of discretion by the court, if the child was deprived of a fair trial;
- (C) misconduct of the prosecuting attorney;
- (D) accident or surprise which could not have been prevented by ordinary prudence;
- (E) material evidence, newly discovered, which with reasonable diligence could not have been found and produced at the trial;
- (F) errors of law occurring at the trial and objected to at the time or, if no objection is required, assigned in the motion;
- (G) the finding that the allegations of the charging document are proved is not justified by the evidence or is contrary to law; or
- (H) ineffective assistance of child's counsel.

Subd. 2. Basis of Motion. A motion for a new trial shall be made and heard on the files, exhibits and minutes of the court. Pertinent facts that would not be a part of the minutes may be shown by affidavit or written statement signed under penalty of perjury pursuant to Minnesota Statutes, section 358.116, except as otherwise provided by these rules. A full or partial transcript of the court reporter's notes of the testimony taken at the trial or other verbatim recording thereof may be used on the hearing of the motion.

Subd. 3. Time for Motion.

(A) *Generally.* Notice of a motion for a new trial shall be served within fifteen (15) days after the court's specific findings are made pursuant to Rule 13.09. The motion shall be heard within thirty (30) days after the court's specific findings are made pursuant to Rule 13.09 unless the time for the hearing is extended by the court for good cause shown within the thirty (30) day period.

(B) *New Evidence.* Notice of a motion for a new trial based on new evidence shall be served and filed within fifteen (15) days of the filing of the court's order for adjudication and disposition. The motion shall be heard within fifteen (15) days of the filing of the notice of motion for new trial. Upon a showing that new evidence exists, the court shall order that a new trial be held within thirty (30) days, unless the court extends this time period for good cause shown within the thirty (30) days.

Subd. 4. Time for Serving Affidavits or Written Statements. When a motion for new trial is based on affidavits or written statements signed under penalty of perjury pursuant to Minnesota Statutes, section 358.116, they shall be served with the notice of motion. The prosecuting attorney shall have ten (10) days after such service in which to serve responsive documents. The period may be extended by the court upon an order extending the time for hearing under this rule. The court may permit reply documents.

(Amended effective for all delinquency actions commenced or children taken into custody after 12 o'clock midnight January 1, 2011; amended effective July 1, 2015.)

16.02 Motion to Vacate the Finding That the Allegations of the Charging Document Are Proved

The court, on motion of the child's counsel, shall vacate the finding that the allegations of the charging document are proved and dismiss the charging document if it fails to charge an offense or if the court was without jurisdiction of the offense charged. The motion shall be made within fifteen (15) days of the finding that the allegations of the charging document are proved or within such time as the court may fix during the fifteen (15) day period. If the motion is granted, the court shall make written findings specifying its reasons for vacating the finding that the allegations of the charging document are proved and dismissing the charging document.

(Amended effective for all juvenile delinquency actions commenced or children taken into custody after 12 o'clock midnight September 1, 2005.)

16.03 Joinder of Motions

Any motion to vacate the finding that the allegations of the charging document are proved shall be joined with a motion for a new trial.

16.04 New Trial on Court's Own Motion

The court, on its own motion, may order a new trial upon any of the grounds specified in Rule 16.01, subdivision 1 within fifteen (15) days after the finding that the allegations of the charging document are proved and with the consent of the child.

(Amended effective for all juveniles taken into custody and all juvenile delinquency actions commenced or children taken into custody after 12 o'clock midnight September 1, 2003.)

16.05 Order

Orders issued pursuant to this rule shall be in writing.

(Added effective for all delinquency actions commenced or children taken into custody after 12 o'clock midnight January 1, 2008.)

Comment--Rule 16

References to "child's counsel" includes the child who is proceeding pro se. Minn. R. Juv. Del. P. 1.01.

*Minn. R. Juv. Del. P. 16.01 subd 3 provides that notice of a motion for a new trial shall be served within fifteen (15) days after the finding that the allegations of the charging document are proved, except for a motion for new trial based on the grounds of new evidence. Minnesota Statutes 2002, section 260B.411, provides for a different time for filing a motion for new trial which is premised on the discovery of new evidence. There, a child must bring a motion for new trial based on new evidence within fifteen (15) days of the filing of the court's order for adjudication and disposition. *Id.* Motions for new trial brought on other grounds must be brought within fifteen (15) days after the finding that the allegations of the charging document are proved as provided by this rule. Minn. R. Juv. Del. P. 16.01 subd 3.*

In re Welfare of D.N. held that a juvenile must move for a new trial to raise an appealable issue on evidentiary rulings. In re Welfare of D.N., 523 N.W.2d 11, 13 (Minn. Ct. App. 1994), review denied (Minn. Nov. 29, 1994). It should be noted that D.N. was a child in need of protection or services and not a delinquent. The procedures for delinquent children are more closely aligned with the rules of adult criminal court.